

# **HELM FINANCIAL CORPORATION**

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February 11, 2010

RECORDATION NO. 17380-B FILED

FEB 11 '10 -254 PM

**Chief  
Section of Administration Office of Proceedings  
Surface Transportation Board  
395 E Street S W  
Washington, D C 20423-0001**

#### **SURFACE TRANSPORTATION BOARD**

RE Assignment and Assumption Agreement dated as of August 31, 2006 between Citicorp Railmark, Inc (assignee of General Electric Railcar Leasing Services Corporation) as Assignor and Helm Financial Corporation as Assignee ("Assignment")

## **Dear Section Chief**

Attached for recordation pursuant to the provision of 49 U.S.C. Section 11301(a) is a copy of the original Assignment and Assumption Agreement, a secondary document as defined in the Board's Rules for Recordation of Documents.

The attached document is an assignment and relates to the document previously filed with the Board under Recordation Number L7380.

The names and addresses of the parties to the attached document are

Name and Address of Assignor Citicorp Railmark, Inc  
388 Greenwich Street, 20<sup>th</sup> Floor  
New York, NY 10013

Name and Address of Assignee Helm Financial Corporation  
505 Sansome Street, Suite 1800  
San Francisco, CA 94111

A description of the railroad equipment covered by the attached document is

**533 Open Top Hoppers  
CNW 870100-870674 (Not Inclusive)**

A short summary of the document to appear in the index is

## **Assignment and Assumption Agreement**

The recordation filing fee of \$41.00 is on account

Yours truly,

*Sharon L. Van Fossan*  
Sharon L. Van Fossan  
Supervisor Contract Administration

/svf  
Attachment

FEB 11 '10 -2 54 PM

**ASSIGNMENT AND ASSUMPTION AGREEMENT SURFACE TRANSPORTATION BOARD**

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of August 31, 2006 (this "Agreement"), is between Citicorp Railmark, Inc. (the "Seller"), and Helm Financial Corporation, a California corporation (the "Buyer").

**RECITALS**

WHEREAS, the Buyer and the Seller have entered into that certain Purchase and Sale Agreement, dated as of August 1, 2006 among the Buyer, the Seller and Citicorp USA, Inc. (the "Purchase Agreement"), providing for the purchase by the Buyer from the Seller of the Hopper Car Owner Interests relating to the open top hopper cars described on Schedule 1 hereto (the "Hopper Cars"), subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows

**AGREEMENT**

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in the Purchase Agreement.

2. **Assignment** Effective as to each Hopper Car, on the Closing Date the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such Hopper Car and assigns to the Buyer all of the Seller's rights and obligations under the Hopper Car Lease Documents. Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Hopper Car Lease Documents. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Hopper Car Lease Documents and each reference in the Hopper Car Lease Documents to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Hopper Car Lease Documents.

4. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

5. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Paragraph 18 of the Purchase Agreement.

6. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

7. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligation Laws.

*[Signature Page Follows]*

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Seller by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Seller. I further declare under penalty of perjury that the foregoing is true and correct.*

**CITICORP RAILMARK, INC.**

By: J. H. Hill  
Name: Board of Directors  
Title: Vice President

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Buyer by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Buyer. I further declare under penalty of perjury that the foregoing is true and correct.*

**HELM FINANCIAL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hcreto on the date first above written.

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Seller by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Seller. I further declare under penalty of perjury that the foregoing is true and correct*

CITICORP RAILMARK, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*I certify that I hold the title set forth below, that this instrument was signed on behalf of the Buyer by authority of its Board of Directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Buyer. I further declare under penalty of perjury that the foregoing is true and correct*

HELM FINANCIAL CORPORATION

By: John F. Dains  
Name: JOHN F. DAINS  
Title: PRESIDENT AND CEO

**SCHEDULE 1 TO**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Five hundred twenty four (524) 4,000 cubic foot, 100 ton, three pocket, rotary coupler, open top hopper railcars built by Trinity Industries in 1991, marked and numbered as follows:

	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>	
1	CNW	870100		43	CNW	870150	85	CNW	870195
2	CNW	870101		44	CNW	870151	86	CNW	870196
3	CNW	870102		45	CNW	870152	87	CNW	870197
4	CNW	870103		46	CNW	870153	88	CNW	870198
5	CNW	870104		47	CNW	870154	89	CNW	870200
6	CNW	870105		48	CNW	870156	90	CNW	870202
7	CNW	870106		49	CNW	870158	91	CNW	870203
8	CNW	870107		50	CNW	870159	92	CNW	870204
9	CNW	870108		51	CNW	870160	93	CNW	870205
10	CNW	870110		52	CNW	870161	94	CNW	870206
11	CNW	870111		53	CNW	870162	95	CNW	870207
12	CNW	870112		54	CNW	870163	96	CNW	870208
13	CNW	870113		55	CNW	870164	97	CNW	870209
14	CNW	870115		56	CNW	870165	98	CNW	870210
15	CNW	870116		57	CNW	870166	99	CNW	870211
16	CNW	870117		58	CNW	870167	100	CNW	870212
17	CNW	870118		59	CNW	870168	101	CNW	870214
18	CNW	870119		60	CNW	870169	102	CNW	870215
19	CNW	870120		61	CNW	870170	103	CNW	870216
20	CNW	870121		62	CNW	870171	104	CNW	870217
21	CNW	870122		63	CNW	870172	105	CNW	870218
22	CNW	870123		64	CNW	870173	106	CNW	870219
23	CNW	870124		65	CNW	870174	107	CNW	870220
24	CNW	870125		66	CNW	870175	108	CNW	870221
25	CNW	870127		67	CNW	870176	109	CNW	870222
26	CNW	870129		68	CNW	870177	110	CNW	870223
27	CNW	870130		69	CNW	870178	111	CNW	870224
28	CNW	870132		70	CNW	870180	112	CNW	870225
29	CNW	870133		71	CNW	870181	113	CNW	870226
30	CNW	870135		72	CNW	870182	114	CNW	870227
31	CNW	870137		73	CNW	870183	115	CNW	870228
32	CNW	870138		74	CNW	870184	116	CNW	870229
33	CNW	870139		75	CNW	870185	117	CNW	870230
34	CNW	870141		76	CNW	870186	118	CNW	870231
35	CNW	870142		77	CNW	870187	119	CNW	870232
36	CNW	870143		78	CNW	870188	120	CNW	870233
37	CNW	870144		79	CNW	870189	121	CNW	870234
38	CNW	870145		80	CNW	870190	122	CNW	870235
39	CNW	870146		81	CNW	870191	123	CNW	870236
40	CNW	870147		82	CNW	870192	124	CNW	870237
41	CNW	870148		83	CNW	870193	125	CNW	870238
42	CNW	870149		84	CNW	870194	126	CNW	870239

	Initial	Number		Initial	Number		Initial	Number
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130	CNW	870244	179	CNW	870297	228	CNW	870364
131	CNW	870245	180	CNW	870298	229	CNW	870365
132	CNW	870246	181	CNW	870299	230	CNW	870366
133	CNW	870247	182	CNW	870300	231	CNW	870367
134	CNW	870248	183	CNW	870302	232	CNW	870368
135	CNW	870249	184	CNW	870303	233	CNW	870369
136	CNW	870250	185	CNW	870304	234	CNW	870370
137	CNW	870251	186	CNW	870305	235	CNW	870371
138	CNW	870252	187	CNW	870306	236	CNW	870372
139	CNW	870253	188	CNW	870307	237	CNW	870373
140	CNW	870254	189	CNW	870309	238	CNW	870374
141	CNW	870255	190	CNW	870310	239	CNW	870375
142	CNW	870256	191	CNW	870311	240	CNW	870376
143	CNW	870257	192	CNW	870312	241	CNW	870378
144	CNW	870258	193	CNW	870313	242	CNW	870379
145	CNW	870259	194	CNW	870314	243	CNW	870380
146	CNW	870260	195	CNW	870315	244	CNW	870381
147	CNW	870261	196	CNW	870317	245	CNW	870382
148	CNW	870262	197	CNW	870319	246	CNW	870383
149	CNW	870263	198	CNW	870320	247	CNW	870384
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155	CNW	870270	204	CNW	870327	253	CNW	870391
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169	CNW	870285	218	CNW	870350	267	CNW	870406
170	CNW	870286	219	CNW	870351	268	CNW	870407
171	CNW	870288	220	CNW	870353	269	CNW	870408
172	CNW	870289	221	CNW	870355	270	CNW	870409
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	Initial	Number		Initial	Number		Initial	Number
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280	CNW	870419	329	CNW	870468	378	CNW	870520
281	CNW	870420	330	CNW	870469	379	CNW	870521
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292	CNW	870431	341	CNW	870480	390	CNW	870532
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306	CNW	870445	355	CNW	870495	404	CNW	870546
307	CNW	870446	356	CNW	870497	405	CNW	870547
308	CNW	870447	357	CNW	870498	406	CNW	870549
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316	CNW	870455	365	CNW	870506	414	CNW	870557
317	CNW	870456	366	CNW	870507	415	CNW	870558
318	CNW	870457	367	CNW	870508	416	CNW	870559
319	CNW	870458	368	CNW	870509	417	CNW	870560
320	CNW	870459	369	CNW	870510	418	CNW	870561
321	CNW	870460	370	CNW	870511	419	CNW	870562
322	CNW	870461	371	CNW	870512	420	CNW	870563

	<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>		<b>Initial</b>	<b>Number</b>
421	CNW	870564	456	CNW	870601	491	CNW	870640
422	CNW	870565	457	CNW	870602	492	CNW	870641
423	CNW	870566	458	CNW	870603	493	CNW	870642
424	CNW	870567	459	CNW	870604	494	CNW	870643
425	CNW	870568	460	CNW	870605	495	CNW	870644
426	CNW	870569	461	CNW	870606	496	CNW	870645
427	CNW	870570	462	CNW	870607	497	CNW	870646
428	CNW	870572	463	CNW	870609	498	CNW	870647
429	CNW	870573	464	CNW	870610	499	CNW	870648
430	CNW	870574	465	CNW	870611	500	CNW	870649
431	CNW	870575	466	CNW	870612	501	CNW	870650
432	CNW	870576	467	CNW	870613	502	CNW	870651
433	CNW	870577	468	CNW	870614	503	CNW	870652
434	CNW	870578	469	CNW	870615	504	CNW	870653
435	CNW	870579	470	CNW	870616	505	CNW	870654
436	CNW	870580	471	CNW	870617	506	CNW	870655
437	CNW	870581	472	CNW	870618	507	CNW	870656
438	CNW	870583	473	CNW	870619	508	CNW	870657
439	CNW	870584	474	CNW	870620	509	CNW	870658
440	CNW	870585	475	CNW	870621	510	CNW	870659
441	CNW	870586	476	CNW	870622	511	CNW	870660
442	CNW	870587	477	CNW	870623	512	CNW	870661
443	CNW	870588	478	CNW	870625	513	CNW	870662
444	CNW	870589	479	CNW	870628	514	CNW	870663
445	CNW	870590	480	CNW	870629	515	CNW	870665
446	CNW	870591	481	CNW	870630	516	CNW	870666
447	CNW	870592	482	CNW	870631	517	CNW	870667
448	CNW	870593	483	CNW	870632	518	CNW	870668
449	CNW	870594	484	CNW	870633	519	CNW	870669
450	CNW	870595	485	CNW	870634	520	CNW	870670
451	CNW	870596	486	CNW	870635	521	CNW	870671
452	CNW	870597	487	CNW	870636	522	CNW	870672
453	CNW	870598	488	CNW	870637	523	CNW	870673
454	CNW	870599	489	CNW	870638	524	CNW	870674
455	CNW	870600	490	CNW	870639			

**EXHIBIT A**

**ADDITIONAL HOPPER CARS**

Nine (9) 4,000 cubic foot, 100 ton, three pocket, rotary coupler, open top hopper railcars built by Trinity Industries in 1991, marked and numbered as follows:

	<b>Initial</b>	<b>Number</b>
1	CNW	870114
2	CNW	870199
3	CNW	870201
4	CNW	870290
5	CNW	870328
6	CNW	870345
7	CNW	870354
8	CNW	870624
9	CNW	870664